



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/757,755

01/15/2004

Anthony John White

7422

4285

7590

04/02/2009

Gauthier & Connors LLP
Suite 3300
225 Franklin Street
Boston, MA 02110

EXAMINER

PATEL, TAJASH D

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

04/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/757,755	Applicant(s) WHITE, ANTHONY JOHN	
	Examiner Tejash D. Patel	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,8-10,12-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,8-10,12-17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 8-10, 12-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grandis (US 4,617,685) in view of Brignoli (US 6,532,600). Grandis discloses an appliance for protecting against impact and strain injury including a plurality of interconnected plates (12) of an impact resistant material being attached to an article/belt/garment (10) worn about the body such as to permit limited relative movement between the plates as shown in figure 3. Further, the plates are aligned along a common fixed elastic backing member (11) that extends centrally along the appliance, col. 2, lines 30-35. Furthermore, means (20, 23) are provided for removably mounting the appliance about the body when the vest is worn. Also, the interconnected plates attached to the backing member in a fixed relative disposition thereto by fastener (8) are in mutually overlapping relationship as shown in figure 1. Also, a permanent cover/sleeve is attached to the belt Grandis discloses the invention as shown above except for the backing member having hook and loop material.

Art Unit: 3765

Brignoli discloses a belt having an knotted ornament (11) with a back surface of the belt having hook and loop material as shown in figure 1-3.

It would have been obvious to one skilled in the art at the time the invention was made to provide the elastic backing member of Grandis with hook and loop material as taught by Brignoli as an alternative but equivalent means for the belt to conform to different sized body while allowing worn or damages plates to be easily removed.

Furthermore, it would have been obvious to one skilled in the art that the appliance of Grandis when viewed with Brignoli can be applied to any article of clothing in order to protected the body about articulated joints or as required for a particular application thereof

Response to Arguments

The reply and terminal disclaimer filed on December 12, 2008 has been considered. In view of such, the double patenting rejection has been withdrawn. However, a newly discovered prior art has prompted this office action to be made new non-final.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Art Unit: 3765

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993.

The fax number for the group is (571) 273-March 30, 2009

March 28, 2009

/Tejash Patel/

Primary Examiner